

REMARKS

The present application was filed on September 26, 2003, with claims 1-27. Applicants previously canceled claims 1-27 without prejudice and presented new claim 28 for consideration during examination. Claim 28 is an independent claim, and is the only pending claim.

Claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,139,494 (hereinafter “Cairnes”) in view of U.S. Patent No. 5,818,056 (hereinafter “Pass”).

Applicants have amended claim 28 without prejudice solely to clarify the claimed subject matter. More particularly, amended claim 28 makes explicit that the one or more metrics are evaluated responsive to the information about the one or more of the plurality of patients and about the at least one environmental factor common to the plurality of patients. This amendment is not believed to add new matter nor even to affect the scope of claim 28, and hence entry is respectfully requested under 37 CFR 1.116(b)(2).

Claim 28 includes a limitation wherein determining one or more priorities associated with a plurality of patients based at least in part on the one or more metrics comprises accessing information about the one or more of the plurality of patients and about at least one environmental condition common to the plurality of patients; and evaluating the one or more metrics responsive to the information about the one or more of the plurality of patients and about the at least one environmental factor common to the plurality of patients.

In illustrative embodiments described in the specification at, for example, page 8, line 24, to page 9, line 5, with reference to element 230 in FIG. 2A; and page 13, line 27, to page 14, line 1, with reference to element 320 in FIG. 3, these environmental factors may include weather and politics. More specifically, these factors may include, for example, temperature, humidity, barometric pressure, smog levels, and terror alert levels. These elements may be used in determining the importance of a metric. For example, if a patient monitor shows abundance of sweat, then this may be discounted in importance if the temperature is high. If general stress conditions in the environment are present (e.g., recent terrorist attack), this may result in discounted importance placed on blood pressure.

The Examiner concedes that Cairnes fails to disclose the limitations which recite at least one environmental factor common to a plurality of patients. Rather, the Examiner argues that “the above

features are well-known in the art, as evidenced by Pass. In particular, Pass teaches accessing information about at least one environmental factor common to the plurality of patients (Pass; column 2, lines 25-45, column 5, line 55, to column 6, line 18).”

Applicants respectfully submit that the relied-upon portions of Pass state that optical simulated luminescence (OSL) “can be used for determining absorbed radiation doses in humans and other dentate animals, for example during unmonitored x-rays, or accidental exposures to ionizing radiation.” See Pass at column 2, lines 25-30. Applicants respectfully submit, and certainly hope, that “unmonitored x-rays, or accidental exposures to ionizing radiation” do not represent an environmental factor common to a plurality of patients.

Moreover, Pass is directed to “a method for determining radiation dose absorbed by a dentate animal comprising exposing dental enamel of said animal to a source of incident optical photos.” See Pass at column 2, lines 38-41 (emphasis added). In other words, Pass teaches a technique for determining the radiation dose absorbed by a given (i.e., single) dentate animal. Applicants respectfully submit that Pass merely teaches another technique for obtaining information about a given patient, rather than information about an environmental factor common to the plurality of patients.

Accordingly, Applicants respectfully submit that Cairnes fails to teach or suggest accessing information about at least one environmental factor common to a plurality of patients, much less doing so in the context of determining one or more priorities associated with the plurality of patients. Applicants further submit that the combination of Cairnes and Pass also fails to teach or suggest the limitations of claim 1 wherein determining one or more priorities associated with the plurality of patients based at least in part on the one or more metrics comprises evaluating the one or more metrics responsive to the information about the one or more of the plurality of patients and about the at least one environmental factor common to the plurality of patients.

In view of the above, Applicants respectfully submit that claim 28 is in proper condition for allowance, and respectfully request withdrawal of the present rejection thereof.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wayne L. Ellenbogen", with a long horizontal flourish extending to the right.

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